

General Information Letter: Investment income of an insurer is generally included in base income only to the extent it is included in federal adjusted gross income of the insurer.

December 21, 2000

Dear:

This is in response to your email inquiry dated December 13, 2000, in which you request a letter ruling. The nature of your request and the information you have provided require that we respond with a General Information Letter, which is designed to provide general information, is not a statement of Department policy and is not binding on the Department. See 86 Ill. Adm. Code 1200.120(b) and (c), which may be found on the Department's web site at www.revenue.state.il.us.

In your letter you have stated the following:

1. Does your state impose a corporate license tax or a franchise tax upon insurer investment income derived from non-insurance related activities (there's a pre-filed draft bill in Montana that is trying to do this)?
2. If so, what is the applicable statute or regulation? (please cite)

In a telephone conversation on December 21, 2000, we discussed Illinois franchise taxes and privilege taxes imposed on insurance companies, and that you would have to contact the Illinois Secretary of State regarding franchise tax issues and the Illinois Department of Insurance regarding privilege tax issues.

Response

Section 203(b)(1) of the Illinois Income Tax Act (35 ILCS 5/101 *et seq.*) provides that the computation of a corporation's net income subject to Illinois income tax begins with the corporation's federal taxable income. Section 203(e)(2)(A) of the Illinois Income Tax Act provides that taxable income of a life insurance company means its life insurance company taxable income as defined in the Internal Revenue Code. Section 203(e)(2)(B) of the Illinois Income Tax Act provides that, in the case of other insurers, taxable income means insurance company taxable income as defined in the Internal Revenue Code.

Section 203(b)(2) of the Illinois Income Tax Act provides for various addition and subtraction modifications to be made to a corporation's federal taxable income. Section 203(h) of the Illinois Income Tax Act provides that no addition and subtraction modifications shall be made to a corporation's federal taxable income unless expressly provided in Section 203. There is no addition or subtraction modification in Section 203(b)(2) of the Illinois Income Tax Act that would subject investment income of an insurer to Illinois tax if investment income is excluded from federal taxable income, nor exclude investment income included in federal taxable income from Illinois taxation.

Assuming investment income of an insurer is generally included in federal taxable income, Section 203(b)(2)(A) of the Illinois Income Tax Act would require the insurer to add back to federal taxable

income any interest on municipal bonds excluded from taxable income under Section 103 of the Internal Revenue Code, and Section 203(b)(2)(J) of the Illinois Income Tax Act would allow the subtraction of interest on federal government obligations and certain Illinois state bonds included in federal taxable income. Otherwise, the Illinois income tax treatment generally follows federal income tax treatment of investment income.

As stated above, this is a general information letter which does not constitute a statement of policy that applies, interprets or prescribes the tax laws, and it is not binding on the Department. If you are not under audit and you wish to obtain a binding Private Letter Ruling regarding your factual situation, please submit all of the information set out in items 1 through 8 of the enclosed copy of Section 1200.110(b). If you have any further questions, you may contact me at (217) 782-7055.

Sincerely,

Paul S. Caselton
Deputy General Counsel -- Income Tax